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Appn. No.: 09/964,852
Response dated August 5, 2008
Responsive to Office Action of July 21, 2008

AUG 05 2008

REMARKS/ARGUMENTS

The Final Office Action of July 21, 2008, has been carefully reviewed and these remarks are responsive thereto. Claims 2, 19, 34, 35, and 40 were previously canceled. Claims 42-45 are new. No new matter has been added. Claims 1, 3-18, 20-33, 36-39, and 41-45 are pending upon entry of the present paper. Reconsideration and allowance of the instant application are respectfully requested.

Rejections Under 35 U.S.C. § 103

Claims 1, 3, 4, 10, 15-18, 20, 24, 27, and 36-39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 5,708,961, hereinafter Hylton, in view of U.S. Pub. No. 2005/0204387, hereinafter Knudson. Applicants respectfully traverse this rejection for at least the following reasons.

Amended independent claim 1 recites, among other features, “. . . subsequent to retransmitting, receiving at the gateway a message indicating that the terminal no longer requires the first transmissions, and removing the first transmissions from the wireless digitally modulated local broadband second transmission responsive to the message.” The amended features are supported by the specification when read as a whole, and in particular, by at least paragraph [0039].

None of the applied references teach or suggest such features. Instead, Hylton at col. 8, line 45 – col. 9, line 8 and Figure 1 merely describes a user selecting a program via a remote control 85, wherein the selection is forwarded by a set-top box 100 to shared receiving system 10 as channel selection information. Even assuming (without admitting) that a change in the selection at remote control 85 can appropriately be analogized to the features of receiving at the gateway a message indicating that the terminal no longer requires the first transmissions as recited in amended claim 1, Hylton fails to disclose removing the first transmissions from the wireless digitally modulated local broadband second transmission responsive to the message. Instead Hylton discloses selecting a different channel. As such, claim 1 is allowable over Hylton.

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Knudson fails to cure the above-noted deficiencies of Hylton. As such, claim 1 is allowable over the applied references (notwithstanding whether the combination of references is proper).

Dependent claims 3, 4, 10, 15-17, 36 and 39, which each depend from claim 1, are allowable for at least the same reasons as claim 1.

Independent claim 18 recites features similar to those described above with respect to claim 1. As such, claim 18 is allowable for at least substantially similar reasons as discussed above with respect to claim 1.

Claims 20, 24, 27, and 37, which depend from claim 18, are allowable for at least the same reasons as claim 18.

Claim 38, which depends from claim 29, is allowable for at least the same reasons as claim 29 (as discussed below).

Claims 5-9, 13, 14, 22, 23, 29, 31 and 33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hylton, in view of Knudson, and further in view of U.S. Pub. No. 2002/0188567, hereinafter Candelore. Applicants respectfully traverse this rejection for at least the following reasons.

Independent claim 29 recites features similar to those described above with respect to claim 1. Candelore fails to cure the deficiencies of Hylton and Knudson noted above as discussed in conjunction with claim 1. As such, claim 29 is allowable over the applied references for at least substantially similar reasons.

Claims 5-9, 13, 14, 22, 23, 31 and 33, which each depend from at least one of claims 1, 18, and 29, are allowable for at least the same reasons as their respective base claims, and further in view of the additional advantageous features recited therein.

For example, claim 7 recites, "wherein the data stream is de-scrambled using a password." The Office Action at pages 8-9 correctly indicates that Candelore fails to disclose the use of a password as recited in claim 7. The Office attempts to remedy the deficiencies of Candelore (and the other applied references) in taking Official Notice that at the time of the invention of claim 7 that the use of password protection to restrict accounts to authorized account holders was old in the art, and that it would have been

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obvious for one of ordinary skill in the art at the time the invention was made to modify the combination of Hylton and Candelore (and presumably Knudson too) to use password protection for the known purpose of preventing unauthorized users from access to a subscriber's account.

Applicants' Amendment dated November 19, 2007, at pages 11-12, discussed the reasons why one of ordinary skill in the art would not have had an apparent reason to modify Hylton and Candelore in the manner suggested in the Final Office Action of September 19, 2007, to include a password. Applicants' Amendment And Request For Reconsideration dated April 23, 2008, at pages 11-12 incorporated by reference the remarks from the Amendment dated November 19, 2007. In the present Office Action at page 4, the Office has relied on Edson (U.S. pub. no. 2003/0101459) to allegedly back-up the previous rejection that was based on Official Notice. The remarks at page 4 of the present Office Action¹ fail to address Applicants' remarks in the Amendment dated November 19, 2007, at pages 11-12 as they relate to why one of ordinary skill in the art would not have had an apparent reason to modify Candelore (and Hylton) to include password protection (whether by way of Official Notice, Edson, or any other reference). More specifically, Applicants note that the Amendment dated November 19, 2007, at pages 11-12 effectively presented two arguments/requests: (1) to support the Office's adoption of Official Notice, and (2) to address the lack of motivation to modify Candelore (and Hylton) to include password protection. The present Office Action only addresses the first argument/request.

Even assuming (without admitting) that the disclosures in Edson may appropriately be analogized to features related to de-scrambling a data stream using a password, the combination of Edson and Candelore (with Hylton) is improper for at least the reasons discussed in Applicants' Amendment dated November 19, 2007, at pages 11-12. Pursuant to MPEP § 707.07(f), Applicants again request the Office to address the substance of Applicants' remarks related to the lack of motivation to modify Candelore (and Hylton) to include password protection. Applicants submit that the combination of Edson

¹ The remarks at page 8 of the present Office Action also fail to specifically address Applicants' remarks.

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and Candelore (with Hylton) is improper, and as such, claim 7 is allowable over the applied references for at least these additional reasons.

Claims 11, 12, 21, and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hylton, in view of Knudson, and further in view of U.S. Pat. No. 7,107,605, hereinafter Janik. This rejection is traversed.

Claims 11, 12, 21, and 28, which each depend from at least one of claims 1 and 18, are allowable for at least the same reasons as their respective base claims because Janik fails to cure the above-noted deficiencies of Hylton and Knudson with respect to claims 1 and 18.

Claims 25, 26, 30, and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hylton, Kundson, and Janik, and further in view of Candelore. This rejection is traversed.

Claims 25, 26, 30, and 32, which each depend from at least one of claims 1, 18, and 29, are allowable for at least the same reasons as their respective base claims.

New Claims

Claims 42-45 have been added in the present paper. Support for the features recited therein can be found in the specification taken as a whole, and in particular, paragraphs [0036]-[0037] and Figure 6.

Independent claim 43 recites features related to

receiving first transmissions, the first transmissions including a plurality of multiplexed streams, wherein each multiplexed stream includes a plurality of discrete services,
de-multiplexing a first one of the plurality of multiplexed streams to obtain at least one first discrete service;
de-multiplexing a second one of the plurality of multiplexed streams to obtain at least one second discrete service; and
generating a wireless digitally modulated local broadband transmission by re-multiplexing the at least one first discrete service with the at least one second discrete service.

The applied references of record fail to teach or suggest such features. For example, as discussed above with respect to claim 1, Hylton at col. 8, line 45 – col. 9, line

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8 merely describes a user selecting a program via a remote control 85, wherein the selection is forwarded by a set-top box 100 to shared receiving system 10 as channel selection information. Even assuming (without admitting) that the programs in Hylton may appropriately be analogized to the recited plurality of discrete services included in each multiplexed stream of the received first transmissions, Hylton fails to disclose generating a wireless digitally modulated local broadband transmission by re-multiplexing at least one first discrete service (de-multiplexed from a first one of the plurality of multiplexed streams) with at least one second discrete service (de-multiplexed from a second one of the plurality of multiplexed streams). As such, claim 1 is patentably distinguishable over Hylton. Notwithstanding whether the additional applied references of record are properly combinable with Hylton, the additional applied references fail to cure the deficiencies of Hylton. As such, claim 1 is allowable.

Dependent claim 44 is allowable for at least the same reasons as claim 43.

Claim 42, which depends from claim 1, is allowable for at least the same reasons as claim 1. Moreover, claim 42 recites features similar to those described above with respect to claim 43. As such, claim 42 is further allowable over the applied references for at least reasons substantially similar to those discussed above with respect to claim 43.

Dependent claim 45 recites features related to receiving from a terminal a selection of at least one of the at least one first discrete service and the at least one second discrete service; and performing a re-multiplexing based on the selection. As discussed above with respect to claim 43, Hylton fails to disclose re-multiplexing at least one first discrete service (de-multiplexed from a first one of a plurality of multiplexed streams) with at least one second discrete service (de-multiplexed from a second one of the plurality of multiplexed streams). As such, Hylton fails to disclose (nor would there be any reason for Hylton to disclose) receiving from a terminal a selection of at least one of the at least one first discrete service and the at least one second discrete service as recited in claim 45. The remaining references fail to remedy this deficiency of Hylton (notwithstanding whether any combination of references is proper), and as such, claim 45 is further allowable for at least these additional reasons.

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CONCLUSION

All rejections having been addressed, Applicant respectfully submits that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same. However, if for any reason the Examiner believes the application is not in condition for allowance or there are any questions, the Examiner is requested to contact Applicant's undersigned counsel at (202) 824-3153.

Respectfully submitted,

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